

**House File 2299 - Introduced**

HOUSE FILE 2299

BY KAJTAZOVIC

**A BILL FOR**

1 An Act establishing a property-assessed clean energy program,  
2 authorizing city and county special assessments, and  
3 providing civil penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 331.441, subsection 2, paragraph b, Code  
2 2014, is amended by adding the following new subparagraph:

3 NEW SUBPARAGRAPH. (20) The establishment or funding of a  
4 property-assessed clean energy program to finance improvements  
5 related to energy efficiency in a county pursuant to chapter  
6 385.

7 Sec. 2. Section 384.24, subsection 3, Code 2014, is amended  
8 by adding the following new paragraph:

9 NEW PARAGRAPH. y. The establishment or funding of a  
10 property-assessed clean energy program to finance improvements  
11 related to energy efficiency within a city pursuant to chapter  
12 385.

13 Sec. 3. NEW SECTION. **385.1 Legislative findings — purpose.**

14 The general assembly finds all of the following:

15 1. Renewable energy production and energy efficiency  
16 improvements to residential, commercial, and industrial real  
17 property, are necessary to address the issue of consumer energy  
18 bill stabilization and global climate change.

19 2. The initial investment required to make residential,  
20 commercial, or industrial real property more energy-efficient  
21 or to utilize renewable energy prevents many property owners  
22 from making such improvements. To make renewable energy  
23 production or energy efficiency improvements more affordable  
24 and to promote their purchase and installation, it is necessary  
25 to authorize an alternative procedure for owners of a residence  
26 or business to finance such improvements.

27 3. The general assembly declares that a public purpose  
28 shall be served by authorizing cities and counties to establish  
29 property-assessed clean energy programs and authorizing the  
30 governing body of any city or county to assist property owners  
31 in financing the purchase and installation of distributed  
32 generation renewable energy sources or energy efficiency  
33 improvements by offering financial terms that are beneficial  
34 to the property owner.

35 Sec. 4. NEW SECTION. **385.2 Definitions.**

1 As used in this chapter, unless the context otherwise  
2 requires:

3 1. "*Distributed generation renewable energy source*" means a  
4 wind energy conversion facility or a solar energy conversion  
5 facility in which the electricity produced is consumed on-site  
6 and which offsets electricity consumption otherwise furnished  
7 by an electric public utility.

8 2. "*Energy analysis*" means a written report summarizing the  
9 results of a physical inspection of a residential, commercial,  
10 or industrial building conducted by a public utility or other  
11 agency or entity approved by a city or county. The report  
12 shall document deficiencies in energy efficiency operation and  
13 recommend specified improvements related to efficiency.

14 3. "*Energy efficiency improvement*" means the installation  
15 of one or more appliances, heating and cooling systems, or the  
16 physical alteration to a building, that has been identified in  
17 an energy analysis as improving the energy-efficient operation  
18 of a building or as decreasing the amount of energy consumed  
19 by a building, or both.

20 Sec. 5. NEW SECTION. 385.3 **Property-assessed clean energy**  
21 **program established.**

22 1. A city or county may adopt an ordinance establishing a  
23 property-assessed clean energy program in order to allow the  
24 city or county to offer to assess to residential, commercial,  
25 or industrial property within the city or county the cost of  
26 purchasing or installing distributed generation renewable  
27 energy sources or energy efficiency improvements.

28 2. A property-assessed clean energy program shall be  
29 limited to improvements that will be permanently affixed to  
30 real property that has already been developed or upon which  
31 buildings have already been constructed. Property owners  
32 participating in the program may receive funding for the  
33 improvements in advance of installation, or as a reimbursement  
34 of amounts expended by the property owner for completed  
35 installations. However, the amount advanced or reimbursed

1 shall not exceed the total amount identified in the petition  
2 submitted by the property owner pursuant to section 385.6.

3 3. Petitions for participation in a property-assessed clean  
4 energy program adopted by a city or county may be submitted,  
5 considered, and approved or denied either individually or  
6 aggregated by neighborhood, district, region, or other basis.

7 Sec. 6. NEW SECTION. 385.4 Resolution of intent.

8 1. The governing body of a city or county may not consider  
9 an ordinance establishing a property-assessed clean energy  
10 program until after the governing body has adopted a resolution  
11 of intent indicating or including the following:

12 a. That the city or county considers it in the public  
13 interest to finance the installation of distributed generation  
14 renewable energy sources or energy efficiency improvements.

15 b. That the city or county proposes to make special  
16 assessment financing or other financing available to property  
17 owners seeking to install distributed generation renewable  
18 energy sources or energy efficiency improvements.

19 c. A brief description of the proposed arrangements for  
20 financing the program.

21 2. The city or county shall hold a public hearing on the  
22 resolution at which interested persons may inquire about or  
23 object to the proposed program. Notice of the hearing shall  
24 be published as provided in section 331.305 or 362.3, as  
25 applicable.

26 Sec. 7. NEW SECTION. 385.5 Program requirements —  
27 ordinance.

28 1. An ordinance establishing a property-assessed clean  
29 energy program shall include the following regarding  
30 implementation of the program:

31 a. A schedule for packaging assessments for program finance  
32 purposes and city council or board of supervisors approval.

33 b. A draft or sample petition specifying the terms and  
34 conditions that would be agreed to by a property owner  
35 participating in the program.

1     *c.* A statement of policies concerning the assessments  
2 including all of the following:

3       (1) Identification of distributed generation renewable  
4 energy sources or energy efficiency improvements that may be  
5 financed pursuant to the program.

6       (2) Identification of a city or county official authorized  
7 to enter into contractual assessments on behalf of the city or  
8 county.

9       (3) A maximum aggregate dollar amount of assessment funding  
10 available pursuant to the program.

11       (4) A method for prioritizing approved applications in the  
12 event the number of applications received for a year exceeds  
13 program funds.

14     *d.* Energy analysis requirements.

15       2. After adoption of an ordinance establishing a  
16 property-assessed clean energy program, a plan for raising a  
17 capital amount required to pay for work performed pursuant  
18 to contractual assessments shall be established by a city or  
19 county. A city or county shall be authorized to advance funds  
20 available to it from any source, including the sale of bonds as  
21 provided in section 385.11 and in section 331.441 or 384.24,  
22 as applicable. The plan shall specify the source of financing  
23 contemplated by the city or county. The plan shall also  
24 provide for a reserve fund and for apportionment of all or any  
25 portion of the costs incidental to financing, administration,  
26 and collection of the special assessments between or among  
27 property owners and the city or county.

28       3. The ordinance establishing a property-assessed clean  
29 energy program shall provide for the establishment of a  
30 property-assessed clean energy program fund into which bond  
31 proceeds and other funds to be utilized in administering the  
32 program shall be deposited.

33       4. If a county has adopted a countywide ordinance, a city  
34 cannot adopt an ordinance establishing a property-assessed  
35 clean energy program applicable to that portion of the city

1 located within the county. If a county has not adopted a  
2 countywide ordinance, a city adopting an ordinance may include  
3 an area extending up to two miles distance from the city's  
4 boundaries.

5     Sec. 8. NEW SECTION.   **385.6 Petition by property owners.**

6     1. A city or county that has established a property-assessed  
7 clean energy program shall develop and make available petitions  
8 for distribution to prospective program participants.

9     2. Program participation shall be initiated solely by  
10 petition of the property owner, or by a representative of  
11 several related or adjoining lots or parcels who has obtained  
12 written permission and a copy of an energy analysis from each  
13 owner. If a property is in the name of more than one owner, the  
14 petition shall be signed by each owner.

15     3. The petition shall state that a copy of a completed  
16 energy analysis shall be required for participation in the  
17 program and must be attached to the petition. The petition  
18 shall contain space for the printed name, signature, and  
19 address of the petitioner. For each petitioner, the petition  
20 shall contain space for identification of improvements related  
21 to energy efficiency identified in the energy analysis for  
22 which property-assessed clean energy program financing is  
23 sought, a cost estimate for each improvement so identified, and  
24 a proposed time frame within which the improvements shall be  
25 undertaken and completed.

26     4. A property owner shall certify on the petition that the  
27 property owner possesses clear title to the property and is  
28 current on all property taxes and mortgage payments.

29     5. Within thirty days following submission of a petition  
30 and accompanying energy analysis, a petitioner shall receive  
31 notification from the city or county of approval pending  
32 adoption of a resolution pursuant to section 385.7 by the city  
33 council or county board of supervisors, or of denial of the  
34 petition. Following adoption of a resolution, an approved  
35 petitioner shall receive notification from the city or county

1 regarding funding amounts, authorization to purchase directly  
2 any equipment and materials for the installation of distributed  
3 generation renewable energy sources or energy efficiency  
4 improvements and to contract directly for such installation,  
5 and verification requirements regarding completion of  
6 improvements.

7     6. Special assessments for distributed generation renewable  
8 energy sources or energy efficiency improvements shall be  
9 levied only upon the free and willing consent of the owner of  
10 each lot or parcel on which an assessment is levied at the time  
11 of levy.

12     Sec. 9. NEW SECTION.   **385.7 Resolution and filing.**

13     1. Approved petitions, whether submitted on an individual  
14 or aggregate basis, shall be grouped either by date of approval  
15 or property location, identified by legal description, and  
16 submitted to a city council or county board of supervisors in  
17 the form of a resolution for approval by majority vote.

18     2. An adopted resolution shall be forwarded to the city  
19 clerk, or the county auditor in the case of a county, along  
20 with a schedule including a description and parcel number of  
21 each lot, the name of the property owner, and the total amount  
22 to be assessed to each lot. In counties in which taxes are  
23 collected in two or more places, certification shall be to the  
24 office of county treasurer where the special assessments are  
25 collected. The county treasurer shall preserve the resolution  
26 and schedule as a part of the records of the office until the  
27 city clerk or county auditor certifies the final assessment  
28 schedule as provided in section 385.8 or certifies that the  
29 petition has been abandoned.

30     Sec. 10. NEW SECTION.   **385.8 Adoption of schedule.**

31     1. Within ten days after filing of the resolution and  
32 schedule pursuant to section 385.7, a city council or county  
33 board of supervisors shall meet, consider, and adopt or amend  
34 and adopt, by resolution, a final assessment schedule. The  
35 resolution must:

- 1     *a.* Confirm and levy assessments.
- 2     *b.* State the number of annual installments, not exceeding
- 3     fifteen, into which assessments of more than five hundred
- 4     dollars are divided.
- 5     *c.* Provide for interest on all unpaid installments at a rate
- 6     not exceeding that permitted by chapter 74A.
- 7     *d.* State the time when assessments are payable.
- 8     *e.* Direct the city clerk or county auditor, as appropriate,
- 9     to certify the final schedule to the treasurer of each county
- 10    in which the assessed property is located.
- 11    2. The city clerk or county auditor shall send written
- 12    notice by regular mail to each property owner whose petition
- 13    has been approved and whose property has been included on the
- 14    schedule. The notice shall contain all the information and
- 15    statements required to be included in notices under section
- 16    384.60, subsection 2.
- 17    3. The county treasurer shall enter on the county system the
- 18    amounts to be assessed against each lot, as certified.
- 19    Sec. 11. NEW SECTION. 385.9 Installments due — lien
- 20    created.
- 21    1. Special assessments levied by a city or county pursuant
- 22    to this chapter shall be levied and collected in the same
- 23    manner as provided in section 384.65 for public improvement
- 24    special assessments levied by a city.
- 25    2. From the date of filing of certification of the
- 26    resolution and schedule pursuant to section 385.7, the special
- 27    assessments with all interest become and remain a lien on the
- 28    benefited property until paid, and have equal precedence with
- 29    ordinary taxes, and are not divested by any judicial sale.
- 30    Sec. 12. NEW SECTION. 385.10 Payment to county treasurer.
- 31    Assessments levied and certified under this chapter,
- 32    including installments and interest, are payable at the office
- 33    of the county treasurer of the county where the property
- 34    assessed is located, except that assessments may be paid
- 35    in full or in part and without interest within thirty days



1 after the date of certification, at the office of the county  
2 treasurer, if the property being assessed is located in an  
3 unincorporated area, or the city clerk, if the property being  
4 assessed is located in an incorporated area.

5     Sec. 13. NEW SECTION.   **385.11 Bonds issued.**

6     1. After certification of the final assessment schedule, a  
7 city or county may, by resolution, authorize and issue bonds in  
8 anticipation of the collection of unpaid special assessments.  
9 However, the total principal amount of bonds issued may not  
10 exceed the total amount of unpaid special assessments.

11    2. All special assessment bonds are negotiable, must state  
12 on their face that they are issued under the provisions of this  
13 chapter, and are payable as to both principal and interest from  
14 the proceeds of the special assessments. Such bonds may bear  
15 interest at a rate not exceeding that permitted by chapter  
16 74A payable annually or semiannually, must mature serially  
17 on December 1 of the years in which any of the principal is  
18 scheduled to become due, and may contain a provision that the  
19 city or county reserves the right and option of calling and  
20 redeeming any or all of the bonds prior to maturity on any  
21 interest payment date or within forty-five days thereafter  
22 upon the terms specified therein. Such bonds must be called  
23 "improvement bonds", must designate the general type of  
24 improvement or improvements for which issued, and may be issued  
25 in any denomination. The bonds must be named in a way to  
26 distinguish them from other improvement bonds of the city or  
27 county, and to designate the property specially assessed for  
28 the improvement. Improvement bonds issued for any one levy  
29 must bear the same date and be divided into as many series as  
30 there are years in which installments of the special assessment  
31 mature, and each series must be as nearly equal in amount as  
32 practicable.

33    3. The proceeds of the special assessments and interest  
34 collected thereon must be used and applied by the city or  
35 county to the payment of the interest on the bonds and to

1 the retirement of the principal as rapidly as proceeds are  
2 collected. Such bonds and coupons do not make the city or  
3 county liable in any way, except for the proper application of  
4 special assessments. If interest becomes due on any of the  
5 bonds when there is no fund from which to pay it, the council  
6 or board of supervisors may make a temporary loan for payment  
7 of the interest, which loan must be repaid from the special  
8 assessments and interest pledged to secure the bonds, but in  
9 case of purchase by the city or county at tax sale of the  
10 property on which a special assessment under this chapter is  
11 levied, from the general fund.

12 4. Special assessment bonds issued under this section  
13 must be sold at public or private sale in the manner provided  
14 by chapter 75, and may not be sold for less than par value  
15 with accrued interest from date to the time of delivery. The  
16 proceeds of the sale must be applied to the payment of the  
17 cost of financing the distributed generation renewable energy  
18 sources or energy efficiency improvements approved under this  
19 chapter.

20 5. Any excess of proceeds from special assessments  
21 remaining after all of the bonds have been paid with interest  
22 may be credited to the property-assessed clean energy program  
23 fund established pursuant to ordinance or returned to the  
24 applicable property owners on a proportionate basis.

25 6. Cities or counties may issue refunding bonds to pay off  
26 and take up special assessment bonds issued pursuant to this  
27 chapter, or to refund any part thereof, as follows:

28 a. Refunding bonds must substantially conform to the  
29 provisions of this chapter, and the face value is limited to  
30 the amount of the unpaid special assessments with the interest  
31 thereon of the particular issue of bonds to be refunded.

32 b. Refunding bonds or their proceeds may be used only to pay  
33 improvement bonds taken up.

34 c. The expense of refunding bonds must be paid out of the  
35 property-assessed clean energy program fund of the city or

1 county.

2     *d.* When refunding bonds are issued to pay improvement  
3 bonds, all special assessments and sinking funds applicable to  
4 the payment of the improvement bonds previously issued must  
5 be applied in the same manner and to the same extent to the  
6 payment of the refunding bonds, and all the powers and duties  
7 to levy and to carry special assessments and taxes, to create  
8 liens upon property, and to establish sinking funds in respect  
9 to the bonds previously issued continue until refunding bonds  
10 are paid.

11     *e.* The city or county shall collect the special assessment  
12 out of which the refunding bonds are payable and hold the  
13 proceeds in trust for the payment of the refunding bonds, but  
14 it is not liable except for the proper application of the  
15 assessments.

16     7. No action shall be brought questioning the legality  
17 of the bonds authorized by this section from and after sixty  
18 days from the date the bonds are ordered issued by the city or  
19 county.

20     Sec. 14. NEW SECTION. 385.12 Verification — penalty.

21     1. A city or county shall determine an inspection  
22 procedure to be utilized upon completion of the installation  
23 of a distributed generation renewable energy source or  
24 an energy efficiency improvement financed pursuant to the  
25 property-assessed clean energy program.

26     2. The city council or board of supervisors may impose a  
27 civil penalty against a property owner for failure to complete  
28 an energy improvement for which a petition was submitted by the  
29 property owner and approved and financing was received. The  
30 penalty may be in an amount up to but not exceeding the amount  
31 of financing received.

32     Sec. 15. Section 403.19, subsection 2, paragraph a, Code  
33 2014, is amended to read as follows:

34     *a.* That portion of the taxes each year in excess of such  
35 amount shall be allocated to and when collected be paid into

1 a special fund of the municipality to pay the principal of  
 2 and interest on loans, moneys advanced to, or indebtedness,  
 3 whether funded, refunded, assumed, or otherwise, including  
 4 bonds issued under the authority of section 403.9, subsection  
 5 1, incurred by the municipality to finance or refinance, in  
 6 whole or in part, an urban renewal project within the area,  
 7 ~~and~~ to provide assistance for low and moderate income family  
 8 housing as provided in section 403.22, and to provide funding  
 9 for a property-assessed clean energy program adopted pursuant  
 10 to chapter 385 with regard to property within the urban renewal  
 11 area. However, except as provided in paragraph "b", taxes for  
 12 the regular and voter-approved physical plant and equipment  
 13 levy of a school district imposed pursuant to section 298.2  
 14 and taxes for the instructional support program of a school  
 15 district imposed pursuant to section 257.19, taxes for the  
 16 payment of bonds and interest of each taxing district, and  
 17 taxes imposed under section 346.27, subsection 22, related to  
 18 joint county-city buildings shall be collected against all  
 19 taxable property within the taxing district without limitation  
 20 by the provisions of this subsection.

21

## EXPLANATION

22           The inclusion of this explanation does not constitute agreement with  
 23           the explanation's substance by the members of the general assembly.

24       This bill authorizes cities and counties to establish  
 25 a property-assessed clean energy program to finance the  
 26 installation of distributed generation renewable energy sources  
 27 or energy efficiency improvements for the benefit of property  
 28 owners within the city or county.

29       The bill defines a "distributed generation renewable energy  
 30 source" to mean a wind energy conversion facility or a solar  
 31 energy conversion facility in which the electricity produced  
 32 is consumed on-site and which offsets electricity consumption  
 33 otherwise furnished by an electric public utility. The bill  
 34 defines an "energy efficiency improvement" as the installation  
 35 of one or more appliances, heating and cooling systems, or the

1 physical alteration to a building that has been identified in  
2 an energy analysis as improving the energy-efficient operation  
3 of a building or as decreasing the amount of energy consumed by  
4 that building, or both. The bill defines an "energy analysis"  
5 as a written report summarizing the results of a physical  
6 inspection of a residential, commercial, or industrial building  
7 conducted by a public utility or other agency or entity  
8 approved by a city or county documenting deficiencies in energy  
9 efficiency operation and recommending specified improvements  
10 related to energy efficiency.

11 Pursuant to the program, a city or county may offer to assess  
12 to residential, commercial, or industrial property within the  
13 city or county the cost of purchasing or installing distributed  
14 generation renewable energy sources or energy efficiency  
15 improvements. The bill states that the program shall be  
16 limited to distributed generation renewable energy sources or  
17 energy efficiency improvements that will be permanently affixed  
18 to real property which has already been developed or upon which  
19 buildings have already been constructed, and that property  
20 owners participating in the program may receive advance funding  
21 for the improvements or reimbursement after the fact.

22 The bill provides that the governing body of a city or county  
23 initiates participation in the program by adopting a resolution  
24 of intent indicating that it is in the public interest to  
25 finance the installation of distributed generation renewable  
26 energy sources or energy efficiency improvements, that special  
27 assessment financing or other financing shall be available  
28 to property owners, and a brief description of financing  
29 arrangements. The bill provides for notice regarding the time  
30 and place of a public hearing on the resolution.

31 The bill directs a city or county wishing to establish a  
32 property-assessed clean energy program to adopt an ordinance  
33 which shall include a schedule for packaging assessments for  
34 program finance purposes and city council or county board of  
35 supervisors approval, a draft or sample petition specifying

1 the terms and conditions that would be agreed to by a property  
2 owner participating in the program, a statement of policies  
3 concerning the assessments, and energy analysis requirements.  
4 After adoption of the ordinance, the city or county is also  
5 directed to establish a plan for raising the capital to pay for  
6 work performed pursuant to the special assessments and shall be  
7 authorized to advance funds available to it from any source.  
8 The bill states that if a county has adopted a countywide  
9 ordinance, a city cannot adopt an ordinance in that portion of  
10 the city located within the county.

11 The bill provides that the city or county shall develop  
12 petitions for use by property owners applying for the program,  
13 informing the property owner of the need to complete an energy  
14 analysis, containing space for property owner identifying  
15 information and for a listing of improvements related to energy  
16 efficiency and cost estimates for which a special assessment  
17 is sought, and requesting a proposed time frame within which  
18 the improvements shall be undertaken and completed. Program  
19 participation shall be initiated solely by petition of the  
20 property owner or by a representative of several related or  
21 adjoining lots or parcels who has obtained written permission,  
22 a petition signature, and a copy of an energy analysis from  
23 each owner. The bill provides that a property owner shall  
24 certify on the petition that the property owner possesses a  
25 clear title to the property and is current on all property  
26 taxes and mortgage payments. The bill provides that within  
27 30 days following submission of a petition and accompanying  
28 energy analysis, a petitioner shall receive notification  
29 from the city or county of approval or denial, and that if  
30 approved the petitioner shall receive subsequent notification  
31 regarding funding amounts, authorization to purchase directly  
32 any equipment and materials for the installation of distributed  
33 generation renewable energy sources or energy efficiency  
34 improvements and to contract directly for such installation,  
35 and verification requirements regarding completion of

1 improvements.

2     The bill provides that approved petitions, whether submitted  
3 on an individual or aggregate basis, shall be grouped either  
4 by date of approval or property location, identified by legal  
5 description, and submitted to a city council or county board  
6 of supervisors in the form of a resolution for approval by  
7 majority vote. The bill directs a city council or county board  
8 of supervisors to forward an approved resolution to the city  
9 clerk or county auditor, as applicable, along with a schedule  
10 including a description and parcel number of each lot, the name  
11 of the property owner, the valuation of each lot as determined  
12 by the council, and the total amount proposed to be assessed  
13 to each lot.

14     The bill then specifies procedures for adoption of the  
15 schedule by the city council or county board of supervisors,  
16 certification to the county treasurer, and property owner  
17 notification provisions. The bill provides that the special  
18 assessments shall be levied and collected in the same manner as  
19 provided in Code section 384.65 for public improvement special  
20 assessments levied by a city. Bonding provisions are set forth  
21 which closely correspond to provisions applicable to special  
22 assessment bonds authorized in Code section 384.68.

23     The bill authorizes utilization of tax increment  
24 financing moneys to fund special assessments under the  
25 program for property in an urban renewal area, and includes  
26 the establishment of the program within the definition of  
27 "essential corporate purpose" and "essential county purpose"  
28 contained in Code chapters 384 and 331, respectively, and  
29 applicable to the issuance of general obligation bonds.

30     The bill requires a city or county to determine an inspection  
31 procedure to verify completion of an improvement related to  
32 energy efficiency financed pursuant to the program.

33     The bill provides that a city or county may impose a civil  
34 penalty in an amount not to exceed the amount financed for  
35 failure to complete an improvement for which a petition was

H.F. 2299

1 submitted and approved and financing was received.